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| 10/748,968 | 12/29/2003 | Douglas Tarr | PAYS0001 | 2705 |

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| 22862        7590        08/23/2007 | **EXAMINER** |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)☒ Responsive to communication(s) filed on <u>08 June 2007</u>.

2a)☐ This action is **FINAL**.     2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)☒ Claim(s) *1, 4-11, 13-15, 18-30, 47-49, 51, 57-60, 62, 92-93, and 96-98* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 4-11, 13-15, 18-30, 47-49, 51, 57-60, 62, 92-93, and 96-98* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

## Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1.      A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection.  Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114.  Applicant's submission filed on 06/08/2007 has been entered.

Claims 1, 4-5, 10, 30, 47, 60, 92, 96, and 98 have been amended.  Claims 2, 12, 16-17,

31-46, 50, 52-56, 63-78, 80-91, 94-95, and 99-110 have been canceled.  Claims 1, 4-11, 13-15,

18-30, 47-49, 51, 57-60, 62, 92-93, and 96-98 are pending.

### *Response to Amendment*

2.      Applicant's cancellation of claim 2 is sufficient to overcome the claim objections set

forth in the previous office action.

3.      Applicant's cancellation of claim 2 and amendments to claims 1 and 4 are sufficient to

overcome the 35 USC 112, second paragraph, rejections set forth in the previous office action.

### *Claim Rejections - 35 USC § 112*

4.      The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

5.      Claims 21 and 59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

Claim 21 recites "weighting said constraints to provide a match score". There is

insufficient antecedent basis for "said constraints" in the claims. Therefore, it is not clear what

information is specifically being weighted. Clarification is required.

Claim 59 recites the limitation "said aggregated information". There is insufficient

antecedent basis for this limitation in the claim. Therefore, it is not clear what information is

specifically being aggregated. Clarification is required.

### Claim Rejections - 35 USC § 103

6.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

7.      Claims 1, 4, 8-11, 15, 18-30, 47-49, 51, 57-60, and 62 are rejected under 35 U.S.C.

103(a) as being unpatentable over Jacobi et al. (U.S. 6,064,980).

As per claim 1, Jacobi et al. teaches a computer-implemented method for surveying a

user with an automatically tailored sequence of questions, comprising the steps of:

presenting at least one question from a collection of questions to said user, the user

answers to said at least one question determining an affinity of said user to at least **one** or more

affinity groups, wherein each affinity group comprises a plurality of user profiles (See figures 3-

4, column 3, lines 15-35, column 5, lines 5-15, and column 6, lines 40-column 7, line 10,

wherein at least one question from those stored is presented to the user. The user answers the

question(s) and based on the answers is correlated to other similar users);

creating a profile for said user if a profile does not exist for said user (See figures 3-4,

column 3, lines 15-35, and column 6, lines 40-column 7, line 10, wherein a profile is created for

the user);

determining if a corresponding affinity group exists for said user profile and, if so,

associating said user profile with at least **one** or more affinity groups based on said user's profile

questions and corresponding answers (See figures 3-4, column 3, lines 15-35, column 5, lines 5-

15, and column 6, lines 40-column 7, line 10, wherein at least one question from those stored is

presented to the user. The user answers the question(s) and based on the answers is correlated to

other similar users);

presenting a particular subsequent question from said collection of questions to said user,

the selection of said subsequent question, and therefore the specific order in which said questions

in said collection of questions are presented to the user, being determined responsive to an

answer received to a previously presented question in said collection of questions and a

particular affinity group **or** combination of affinity groups to which said user profile is associated

(See figures 3-4, column 3, lines 15-35, column 5, lines 5-15, and column 6, lines 40-column 7,

line 10, wherein a subsequent question is displayed on the screen in response to an answer

previously received by the user (for example, the user selects that they like a certain category and

then is shown subsequent questions concerning the category). The user is asked about things that

are popular amongst other users that like the same category);

repeating the steps above until all possible questions of said collection of questions have

been presented to and answered by said user (See figures 3-4, column 3, lines 15-35, column 5,

lines 5-15, and column 6, lines 40-column 7, line 10, wherein there is a minimum number of

questions that must be answered and the user can also answer questions across multiple categories).

However, Jacobi et al. does not expressly disclose that at least one the questions being pertinent to at least one of compensation, benefits, wages, and economic analysis.

Jacobi et al. discloses a dynamical questioning system that allows a user to create a profile by answering questions, causing the user to be associated with other like minded users. Examiner takes official notice that it is old and well known to field surveys concerning compensation, benefits, wages, and economic analysis in order to ascertain this information from people in the industry. Further, Examiner notes that the fact that one question is related to at least one of the topics of compensation, benefits, wages, and economic analysis has no functional impact on the method for surveying as the wording of the question does not change the claimed surveying method. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include one question concerning at least one of compensation, benefits, wages, and economic analysis in the survey method presented by Jacobi et al., since the operation of the surveying method of Jacobi et al. is in no way dependent on the language of the questions presented and the survey method could be used in combination with the old and well known survey questions concerning compensation, benefits, wages, and economic analysis to achieve the predictable results of collecting responses to the questions and grouping like minded individuals.

Further, as for the limitations "creating a profile [...] if a profile does not exist for the user, otherwise accessing the existing [...] and "determining if a corresponding affinity group exists and if so [...], otherwise creating at least one new affinity group [...]", Jacobi et al. at least

teaches the situation where a profile does not exist and an affinity groups do exist. As currently recited, this limitations are recited in the alternative, and thus the other alternative is not required in cases where the methodology does not have a profile and affinity groups do exist.

As per claim 4, Jacobi et al. discloses wherein said at least one particular subsequent segment of said questions is presented at least because of popularity if said subsequent questions within said particular affinity group or combination of affinity groups (See column 3, lines 15-35, and column 6, lines 40-column 7, line 10, wherein the questions presented to the user concern popular items with the group).

As per claim 8, Jacobi et al. teaches wherein a question comprises at least two possible answers (See figures 3-4 and column 6, lines 50-65, wherein multiple answers may be selected from the drop down box and the user).

As per claim 9, Jacobi et al. teaches wherein said user may select more than one answer to said question (See figures 2-4, wherein the user can enter multiple answers to the categories question).

Claim 10 recites substantially similar limitations to claim 4 and is therefore rejected using the same art and rationale as set forth above.

As per claim 11, Jacobi et al. teaches wherein said method further comprises the step of: filtering said user's profile, wherein said filtering comprises the application of a rules engine that compares said user profile to a set of predefined criteria (See column 2, lines 15-30, and column 5, lines 5-15, which discloses correlation algorithms and collaborative filtering).

As per claims 15, Jacobi et al. discloses periodically creating a new affinity group and associating at least one user to said new affinity group (See column 5, lines 50-60, and column 9, lines 1-10 and 40-65).

As per claim 18, Jacobi et al. teaches a method further comprising the step of: providing a report (See column 7, lines 30-55, wherein a list of recommendations are reported to the user. See also figure 5).

As per claim 19, Jacobi et al. disclose a method wherein generation of said report is constrained by at least an attribute of said user profile (See column 2, lines 15-30, column 5, lines 5-15, and column 7, lines 30-55, wherein a list of recommendations are reported to the user constrained by attributes in the user profile. See also figure 5).

As per claims 20 and 22-29, Jacobi et al. teaches that the report is constrained by at least an attribute of said user profile (see claim 19). Therefore, claims 20 and 22-29 are outside the scope of the claim in instances where the report is constrained by at least an attribute of said user profile.

As per claim 21, Jacobi et al. teaches a method further comprising the step of: weighting constraints to provide a match score (See column 3, lines 30-55, wherein collaborative filtering, predictions, and correlations are used).

Claim 30 recites equivalent limitations to claim 1 and is therefore rejected using the same art and rationale as applied above. However, Jacobi et al. does not expressly disclose that the affinity group is related to compensation.

Jacobi et al. discloses a dynamical questioning system that allows a user to create a profile by answering questions, causing the user to be associated with other like-minded users.

Examiner takes official notice that it is old and well known to field surveys to survey an industry

and compile data concerning that industry, such as a compensation data.  Further, Examiner

notes that the fact that the data is related to compensation has no functional impact on the

method for surveying claimed.  Therefore, it would have been obvious to one of ordinary skill in

the art at the time of the invention to include compensation as the data used for grouping users in

Jacobi et al. since the operation of the surveying method of Jacobi et al. (and the collaborative

filtering and correlating) is in no way dependent on the type of data collected and the survey

method could be used in combination with the old and well known industry surveys to achieve

the predictable results of collecting responses to the questions and grouping like minded

individuals.

As per claim 47, Jacobi et al. teaches affinity groups (See figures 3-4, column 3, lines 15-

35, column 5, lines 5-15, and column 6, lines 40-column 7, line 10, wherein at least one question

from those stored is presented to the user.  The user answers the question(s) and based on the

answers is correlated to other similar users).  However, Jacobi et al. does not expressly disclose

that said affinity group comprises one of profession, compensation, compensation range,

experience, position, and position range.

Jacobi et al. discloses a dynamical questioning system that allows a user to create a

profile by answering questions, causing the user to be associated with other like-minded users.

Examiner takes official notice that profession, compensation, compensation range, experience,

position, and position range are old and well known groups of alike individuals and/or topics in

industry.  Further, Examiner notes that the fact that an affinity group comprises one of these

areas has no functional impact on the method for surveying as the answers are collected and

sorted in the same manner regardless of the topic. Therefore, it would have been obvious to one

of ordinary skill in the art at the time of the invention to include an affinity grouping comprising

one of profession, compensation, compensation range, experience, position, and position range in

the survey method presented by Jacobi et al., since the operation of the surveying method of

Jacobi et al. is in no way dependent on the label of the affinity group created and the survey

method could be used in combination with the old and well known industry groups to achieve the

predictable results of collecting responses to the questions and grouping like minded individuals.

As per claims 48 and 49, Jacobi et al. teaches a method further comprising the step of:

providing a report (See column 7, lines 30-55, wherein a list of recommendations are reported to

the user. See also figure 5) and wherein generation of said report is constrained by at least an

attribute of said user profile (See column 2, lines 15-30, column 5, lines 5-15, and column 7,

lines 30-55, wherein a list of recommendations are reported to the user constrained by attributes

in the user profile. See also figure 5). However, Jacobi et al. does not expressly disclose that the

report is a compensation report.

Jacobi et al. discloses a dynamical questioning system that allows a user to create a

profile by answering questions, causing the user to be associated with other like-minded users.

Examiner takes official notice that it is old and well known to field surveys to survey an industry

and compile statistics concerning that industry, such as a compensation report. Further,

Examiner notes that the fact that the report is a compensation report has no functional impact on

the method for surveying claimed. Therefore, it would have been obvious to one of ordinary

skill in the art at the time of the invention to include compensation reports in the report provided

by Jacobi et al. since the operation of the surveying method of Jacobi et al. is in no way

dependent on the type of data collected and the survey method could be used in combination with the old and well known industry surveys to achieve the predictable results of collecting responses to the questions and grouping like minded individuals.

As per claims 51 and 57-60, Jacobi et al. teaches constraining a report by at least an attribute of said user profile (see claims 48-49). Therefore, claim 51 is outside the scope of the claim in instances where the report is constrained by at least an attribute of said user profile.

As per claim 62, Jacobi et al. does not expressly disclose that the affinity group is related to compensation, compensation comprising annual salary.

Jacobi et al. discloses a dynamical questioning system that allows a user to create a profile by answering questions, causing the user to be associated with other like-minded users. Examiner takes official notice that it is old and well known to field surveys to survey an industry and compile data concerning that industry, such as a compensation data. Examiner further takes official notice that annual salary is an old and well-known way to measure compensation at a job. Further, Examiner notes that the fact that the data is related to compensation has no functional impact on the method for surveying claimed. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include compensation as the data used for grouping users in Jacobi et al. since the operation of the surveying method of Jacobi et al. (and the collaborative filtering and correlating) is in no way dependent on the type of data collected and the survey method could be used in combination with the old and well known industry surveys to achieve the predictable results of collecting responses to the questions and grouping like minded individuals.

8.      Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobi et al.

(U.S. 6,064,980) in view of Turnasella (2003/0145015).

As per claims 5-7, Jacobi et al. does not expressly disclose and Turnasella discloses

wherein said at least one corresponding answer from said user comprises an open text (See at

least figures 9 and 17-18, paragraphs 0006, 0031-0033, 0036, 0038, 0044, 0048, 0055, wherein

text is entered) and wherein said open text allows said user to add a new answer value for said at

least one corresponding answer, wherein said new answer is used as one of said respective

answers when said at least one question is subsequently posed to a second user (at least 0055,

wherein the new answer is used in later surveys).

Both Jacobi et al. and Turnasella disclose systems wherein information is collected via a

computer interface associated with a user.  Jacobi et al. discloses an interface for collecting

answers to a questions in order to group the user with like minded individuals and ask additional

questions.  Turnasella discloses wherein said at least one corresponding answer from said user

comprises an open text.  Using open-text questions and fields is well known in computer

interfaces.  Therefore, it would have been obvious to one of ordinary skill in the art at the time of

the invention to use open text boxes in order to more accurately evaluate a candidate for a job

position by having more information with which to validate the candidate's qualifications.

9.      Claims 13-14, 92-93, and 96-98 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Jacobi et al. (U.S. 6,064,980) in view of Williams et al. (U.S. 6,618,734).

As per claims 13 and 14, Jacobi et al. does not expressly disclose and Williams et al.

discloses modifying an answer to said question based on at least on consistency with answers of

'said particular affinity group or combination of affinity groups (See column 7, lines 5-25, wherein the user modifies an answer).

Both Jacobi et al. and Williams et al. disclose systems wherein information is collected via a computer interface associated with a user. Jacobi et al. discloses an interface for collecting answers to questions in order to group the user with like-minded individuals and ask additional questions. Williams et al. is concerned with presenting questions and obtaining answers in the labor industry, and further teaches modifying an answer if it is inconsistent with at least said affinity group. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the received answers in the system of Jacobi et al. in the manner taught by Williams et al. in order to more efficiently match an affinity group when one answer is skew from the rest of the answers (and thus not representative).

As per claim 92, claim 92 is substantially similar to claim 1 and therefore is rejected using the same art and rationale set forth above. Jacobi et al. further discloses that the profile includes the answers to the posed questions (See figures 3-4, column 3, lines 15-35, column 5, lines 5-15, and column 6, lines 40-column 7, line 10) and filtering said user's profile, wherein said filtering comprises the application of a rules engine that compares said user profile to a set of predefined criteria (See column 2, lines 15-30, and column 5, lines 5-15, which discloses correlation algorithms and collaborative filtering). However, Jacobi et al. does not expressly disclose an affinity of a user being related to compensation, that said user profile is comprised of said questions and corresponding answers, filtering said user profile, or modifying an answer if it is inconsistent with said affinity group.

Williams et al. discloses modifying an answer if it is inconsistent with at least said affinity group (See column 7, lines 5-25, wherein an answer may be changed if no group matches).

However, Williams et al. does not expressly disclose an affinity of a user being related to compensation or that said user profile is comprised of said questions and corresponding answers.

Jacobi et al. discloses a dynamical questioning system that allows a user to create a profile by answering questions, causing the user to be associated with other like-minded users. Examiner takes official notice that it is old and well known to field surveys concerning topics such as compensation in order to ascertain this information from people in the industry. Further, Examiner notes that the group is related to the topic of compensation has no functional impact on the method for surveying as the title/label of the group does not change the claimed surveying method. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include that an affinity grouping of Jacobi et al. is related to compensation since the operation of the surveying method of Jacobi et al. is in no way dependent on the title or label of the affinity group or the language of the questions presented and the survey method could be used in combination with the old and well known compensation topic to achieve the predictable results of collecting responses to the questions and grouping like minded individuals.

Further, both Jacobi et al. and Williams et al. disclose systems wherein information is collected via a computer interface associated with a user. Jacobi et al. discloses an interface for collecting answers to questions in order to group the user with like-minded individuals and ask additional questions. Williams et al. is concerned with presenting questions and obtaining answers in the labor industry, and further teaches modifying an answer if it is inconsistent with at

least said affinity group. Williams et al. further presents a sequence of questions to a user to collect data about the user and associate the user with groups based on this data. The group with which the user matches allows the user to be hired for a position. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to store the profile information gained in both Jacobi et al. and Williams et al. along with the questions that elicited the data in order to more efficiently and accurately track the user's interactions with the system by maintaining more complete records concerning each user. See column 2, lines 10-15 and 50-60, and column 6, lines 50-60, of Williams et al. wherein a goal of the system is collect candidate information and track the candidate. Further, it would have been further obvious to one of ordinary skill in the art at the time of the invention to modify the received answers in the system of Jacobi et al. in order to more efficiently match an affinity group when one answer is skew from the rest of the answers (and thus not representative).

As per claim 93, Jacobi et al. teaches a method further comprising the steps of: at least periodically checking all user profiles; and attempting to generate an affinity group, wherein said affinity group comprises at least a user profile (See figures 3-4, column 3, lines 15-35, column 5, lines 5-15, and column 6, lines 40-column 7, line 10, wherein the stored profiles are checked and correlated to make recommendations).

As per claim 97, Jacobi et al. discloses a method further comprising the step of: querying any of a database of a plurality of user profiles and a database of a plurality of affinity groups for a statistical report (See column 2, lines 15-30, and column 5, lines 5-15, which discloses correlation algorithms and collaborative filtering. See also figures 4-5)

Claims 96 and 98 recite equivalent limitations to claims 10 and 60, respectively, and are

therefore rejected using the same art and rationale as applied above.

### *Response to Arguments*

10.       Applicant's arguments with respect to claims 1, 4-11, 13-15, 18-30, 47-49, 51, 57-60, 62,

92-93, and 96-98 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Beth Van Doren whose telephone number is 571-272-6737.  The

examiner can normally be reached on M-F, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz can be reached on 571-272-6729.  The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system.  Status information for published applications

may be obtained from either Private PAIR or Public PAIR.  Status information for unpublished

applications is available through Private PAIR only.  For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

bvd
August 16, 2007

BETH VAN DOREN
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